

1 BEFORE THE
2 ILLINOIS COMMERCE COMMISSION
3
4 IN THE MATTER OF:)
5)
6 ILLINOIS COMMERCE COMMISSION,)
7 On Its Own Motion)
8)
9 vs.)
10 MANK, LTD.) No. 04-0164
11 Citation to show cause for)
12 continued QSWEF certification)
13 of CDT landfill facility.)
14 Chicago, Illinois
15 April 9th, 2004

16 Met pursuant to notice at 11:00 a.m.

17 BEFORE:

18 MS. CLAUDIA SAINSOT, Administrative Law Judge

19 APPEARANCES:

20 GOULD & RATNER
21 MR. LOUIS D. BERNSTEIN
22 222 North LaSalle Street, Eighth Floor
 Chicago, Illinois 60601
 Appearing for receiver;

1 APPEARANCES (Continued)

2 MR. JOHN REICHART and
3 MS. CARLA SCARSELLA
4 160 North LaSalle Street, Suite C-800
5 Chicago, Illinois 60601
6 Appearing for staff;

7 MR. MICHAEL S. PABIAN and
8 MR. GARCIA
9 10 South Dearborn Street, 35th Floor
10 Chicago, Illinois 60603
11 Appearing for Com Ed.

12

13

14

15

16

17

18

19

20 SULLIVAN REPORTING COMPANY, by
21 Barbara A. Perkovich, CSR
22

1	<u>I</u> <u>N</u> <u>D</u> <u>E</u> <u>X</u>					
2				Re-	Re-	By
3	<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>direct</u>	<u>cross</u>	<u>Judge</u>
4	None					
5						
6						
7						
8						
9						
10	<u>E</u> <u>X</u> <u>H</u> <u>I</u> <u>B</u> <u>I</u> <u>T</u> <u>S</u>					
11	<u>Number</u>	<u>For Identification</u>			<u>In Evidence</u>	
12	None					
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						

1 JUDGE SAINSOT: By the authority vested in me
2 by the Illinois Commerce Commission I now call
3 Docket No. 04-0164. It is the Illinois Commerce
4 Commission on its own motion versus MANK
5 Limited. It is the investigation of compliance
6 with the order that granted MANK Limited QSWEF
7 status.

8 Will the parties identify themselves for
9 the record, please.

10 MR. BERNSTEIN: Louis Bernstein from Gould and
11 Ratner on behalf of the receiver Le Petomaine VI.
12 Not individually but as receiver for KMS Joliet
13 II. That's Roman Numeral 2.

14 MR. PABIAN: For intervenor Commonwealth
15 Edison, Michael S. Pabian, 10 South Dearborn
16 Street, 35th Floor, Chicago, Illinois 60603. And
17 also here with me today is Mr. Robert Garcia.

18 MR. REICHART: And on behalf of the staff of
19 the Illinois Commerce Commission John Reichart
20 and Carla Scarsella, 160 North LaSalle, Chicago,
21 Illinois 60601.

22 JUDGE SAINSOT: Okay, for the record, I have in

1 front of me two motions, one filed by Com Ed to
2 close this proceeding, and one filed by Le
3 Petomaine VI I think to join in Com Ed's motion
4 to close the proceedings.

5 And I have some just general
6 observations, that I'm hoping -- or questions
7 that I'm hoping that staff could clear up in a
8 response to Com Ed's motion. I am not clear
9 whether, and this may be a moot issue, if there
10 is nothing going on at that facility, but I'm not
11 clear whether an entity has to have Commission
12 approval to operate a landfill facility that
13 doesn't have the tax credits and all that which
14 the QWSEF provides for a certain rate to be paid
15 and state tax credits to offset those rates.

16 But if an entity just decides to operate
17 a landfill generating facility, does an entity
18 have to be certificated or licensed or let us
19 know what's going on? That's my question. The
20 state taxes and all that stuff, is an issue that
21 was very well covered, I thought, in the motion
22 to close the proceedings.

1 Also factually I'm not clear, and maybe
2 Com Ed can clear this up, if there's a period of
3 time when Com Ed was paying that special rate to
4 the owner of the facility in question, and
5 receiving tax benefits. I note that Com Ed has
6 provided evidence indicating that on February
7 2nd, 2004, it stopped paying the special rate and
8 stopped receiving the special tax credits, but
9 I'm not really clear what was going on before or
10 what should have been going on before.

11 And if there was some payment of the
12 special tax credits when this -- by the state
13 when this entity should not have been licensed or
14 should not have -- when the state shouldn't have
15 paid, then do we need to notify the Illinois
16 Department of Revenue and how would that work.

17 And finally, I noticed in the staff
18 report, this is minor issue, but just bring it
19 up, that staff wanted the QWSEF certificate that
20 was originally issued here vacated, and I think
21 probably a better approach is just to revoke it.
22 So these are, in my view, these are probably just

1 minor facts that need to be cleared up, but I can
2 be wrong about that.

3 So on that basis staff has indicated to
4 me that they would like to file a response --
5 well, before we do that, is there any objection
6 to the motion to join Com Ed's amended motion to
7 close the proceeding?

8 MR. REICHART: Staff has no objection.

9 JUDGE SAINSOT: That being the case, your
10 motion is granted, counsel.

11 MR. BERNSTEIN: Thank you.

12 JUDGE SAINSOT: Now, staff has indicated that
13 they would like until the 23rd of April to file a
14 response.

15 MR. REICHART: Correct, Judge.

16 JUDGE SAINSOT: And how long do you need to
17 file a reply?

18 MR. PABIAN: I would think two weeks would
19 probably be sufficient, so that would be what,
20 the 7th?

21 JUDGE SAINSOT: May 7th. Okay, so the replies
22 will be due, if any, on or before May 7th. And I

1 have to tell you, counsel, this is a very
2 informative motion and you did a really good job.
3 Okay, anything else we need?
4 MR. BERNSTEIN: Do another status after the
5 briefs or how do you want to handle that?
6 JUDGE SAINSOT: Yeah. So the week after the --
7 the week of the 7th. Wednesday afternoon.
8 MR. BERNSTEIN: That's fine with me, your
9 Honor.
10 JUDGE SAINSOT: Can we do it at 1:30?
11 MR. BERNSTEIN: That's fine with me.
12 MR. PABIAN: Sure. Is that the 12th?
13 JUDGE SAINSOT: Yeah, Wednesday the 12th.
14 Okay, anything further?
15 MR. REICHART: Staff has nothing.
16 MR. BERNSTEIN: I will say this, your Honor,
17 assuming I file our motion to request leave of
18 the court to sell the generators to DTE, I will
19 serve counsel so they're fully aware.
20 JUDGE SAINSOT: Okay, thanks.
21
22

1 (Whereupon the above-entitled
2 matter was continued to May 12th,
3 2004 at 1:30 p.m.)
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22